United States "Good Samaritan" Law

Liability Issues

On October 1, 1996, President Clinton signed the Bill Emerson Good Samaritan Food Donation Act to encourage the donation of food and grocery products to non-profit organizations for distribution to needy individuals. This new law makes it easier to donate. Here's how:

It protects donors from liability when donating to a non-profit organization.
It protects donors from civil and criminal liability should the product donated in good faith later cause harm to the needy recipient.
It standardizes donor liability exposure. Donors and their legal counsel no longer have to investigate liability laws in 50 states.
It sets a liability floor of "gross negligence" or intentional misconduct for persons who donate grocery products. (See Act text for further definitions.)
Congress recognized that the provision of food close to recommended date of sale is, in and of itself, not grounds for finding gross negligence. For example, cereal can be donated if it is marked close to code date for retail sale.

The Bill Emerson Food Donation Act

One Hundred Fourth Congress of the United States of America - At the Second Session
Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six.

An Act

To encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. CONVERSION TO PERMANENT LAW OD MODEL GOOD SAMARITAN FOOD DONATION ACT AND TRANSFER OF THAT ACT TO CHILD NUTRITION ACT OF 1966.

(a) Conversion to Permanent Law. -- Title IV of the National and Community Service Act of 1990 is amended --
by striking the title heading and sections 401 and 403 (42 U.S.C. 12671 and 12673); and in section 402 (42 U.S.C. 12672) --
(A) in the section heading, by striking "model" and inserting "bill emerson"
(B) in subsection (a), by striking "Good Samaritan" and inserting "Bill Emerson Good Samaritan:"

(C) in subsection (b)(7), to read as follows:
"(7) GROSS NEGLIGENCE. -- The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.";

(D) by striking subsection (c) and inserting the following:
"(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.

"(1) LIABILITY OF PERSON OR GLEANER. -- A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.
"(2) LIABILITY OF NONPROFIT ORGANIZATION. -- A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

"(3) EXCEPTION. -- Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct."; and

(E) in subsection (f), by adding at the end the following: "Nothing in this section shall be construed to supersede State or local health regulations.".

(b) TRANSFER TO CHILD NUTRITION ACT OF 1966. -- Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12762) (as amended by subsection (a)) --
is transferred from the National and Community Service Act of 1990 to the Child Nutrition Act of 1966;
is redesignated as section 22 of the Child Nutrition Act of 1966; and
is added at the end of such Act.
(c) CONFORMING AMENDMENT. -- The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Newt Gingrich
Speaker of the House of Representatives

Strom Thurmond
President of the Senate Pro Tempore

Approved 10/01/96
William J. Clinton
President of the United States
P.L. 104-210

Text provided by Second Harvest.